

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

QUINTON BURNETT

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:08CV45-P-A

**CITY OF SOUTHAVEN, MAYOR
GREG DAVIS, IN HIS OFFICIAL
CAPACITY AS MAYOR OF SOUTHAVEN,
MISSISSIPPI; SOUTHAVEN POLICE
DEPARTMENT AND THOMAS LONG
IN HIS OFFICIAL CAPACITY AS CHIEF
OF POLICE, CHAD SIMMONS, INDIVIDUALLY
AND IN HIS OFFICIAL CAPACITY AS A
SOUTHAVEN POLICE OFFICER**

DEFENDANTS

ORDER

This cause is before the Court on a Motion for Summary Judgment [54] filed by defendant Chad Simmons, individually and in his official capacity as a Southaven Police Officer. The Court, having reviewed the motion, the response, the briefs of the parties, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

Plaintiff sued Chad Simmons in both his individual and official capacities. The official capacity claim is tantamount to a claim against the City of Southaven, already named as a defendant. Roberts v. City of Shreveport, 397 F.3d 287, 291 (5th Cir. 2005). Accordingly, the official capacity claim against Simmons is redundant and said claim should be dismissed. As regards the individual capacity claim against Simmons, the Court concludes that the motion is not well-taken and should be denied for the same reasons expressed in the Court's prior Order dated March 25, 2009. Accordingly,

IT IS, THEREFORE, ORDERED AND ADJUDGED that defendant Simmons' Motion for Summary Judgment [54] is not well-taken and should be, and hereby is, DENIED. IT IS FURTHER ORDERED that the official capacity claim against defendant Simmons' should be, and hereby is, DISMISSED WITH PREJUDICE.

This, the 15th day of June, 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE